



AZ POST
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The Arizona Peace Officer Standards and Training Board (AZ POST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of some of the actions taken by the Arizona Peace Officer Standards and Training Board at its **May and June 2005**, public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have. The "Editor Notes" and the "Frequently Asked Questions" section are historical observations and insights for training and discussion purposes only.

CASE NO. 1

DISHONESTY

Cadet A plagiarized four essays he obtained on the internet and submitted them as his own work to the academy. He then lied about it to academy staff when questioned. The Board denied him peace officer certification for malfeasance in office.

CASE NO. 2

HARRASSING PHONE CALLS

Officer B made two bouts of harassing phone calls to his ex-wife about three months apart. He was found guilty of both counts in city court and sentenced to 18 months probation and counseling. The Board suspended his certification for one year from the date of his termination from the agency for malfeasance in office. There were indications that his probation would be terminated early and he had completed all the counseling prior to appearing before the Board and asking for leniency.

CASE NO. 3

DISHONESTY

Officer C violated a court order by initiating contact with his wife. He gave false information to a peace officer who was questioning him about the improper contact. The Board revoked his certification for committing an offense involving dishonesty.

CASE NO. 4

SEX ON DUTY

Officer D engaged in sexual contact with a fellow officer while on duty. The Board noted several mitigating factors. The two broke off the affair on their own and took steps to separate to avoid temptation. Officer D applied for work at a different agency for this purpose. There he properly self-reported the conduct and answered all questions by the potential hiring agency and his present agency truthfully. No calls for service were delayed or missed because of the conduct. The Board adopted a consent agreement calling for a 90 day suspension of certification beginning on the date he was terminated by the agency.

CASE NO. 5**DISHONESTY**

Officer E inflated the numbers on his weeklies by reporting some of his contacts as violator stops over a three year period of time. Contacts included each ticket, warning or other contact during a stop. There could be numerous contacts during a single violator stop. In mitigation the officer offered that he began the practice when he was going through an emotionally devastating divorce. He stopped the practice on his own before anyone else became aware of it. When he learned that an audit of his records would be conducted, he came forward and self-reported the full extent and duration of his erroneous reporting. He had been terminated from his agency but the personnel board returned him to his job. The Board adopted a consent agreement calling for a four month suspension for malfeasance in office.

CASE NO. 6**4TH AMENDMENT**

Officer F performed an unwarranted search of a parked and unoccupied pick-up truck during which he discovered a small amount of what he suspected to be illegal drugs. Officer F did not seize the drugs or make a written report, nor report his actions, but instead, he returned the drugs to the vehicle, had the vehicle towed with instructions to the tow truck driver to notify police when someone claimed the truck so that an arrest could be made. Interviews with the officer revealed that he was fuzzy on some of the fundamental principles of constitutional protections. The Board adopted a consent agreement whereby Officer F received additional training. He repeated the 24 hours of search and seizure and constitutional law at an academy and passed those portions of the POST Comprehensive test covering the relevant performance objectives.

CASE NO. 7**DISHONESTY**

Applicant G stole an acquaintance's credit card and charged about \$300.00 worth of internet pornography on it. When the victim accused him, he initially refused to reimburse the victim. The victim said he would go to the police and ruin the applicant's chances of becoming a peace officer. The applicant threatened to kill the victim. The victim did report the theft and the applicant eventually arranged a civil compromise by paying the victim \$500.00 for the charges and interest accrued on the card. No criminal charges were brought. About 18 months later, Applicant G while undergoing a background investigation, lied to the psychologist, polygraph examiner and on his POST Personal History Statement about this incident. His story was that the victim used his credit card and blamed him. He claimed the responding peace officer coerced him into paying. He said he paid him only to settle the matter. He also reported that "I used a friend's credit card for \$3.00 but turn out around \$350 or so was charged to his card. I gave him \$500 and the matter was settled. (sic)" The Board denied him certification for providing false information in connection with obtaining certified status.

CASE NO. 8**DISHONESTY**

Officer H engaged in a long and egregious pattern of making inappropriate and offensive sexual comments to female members of the public while in uniform and on duty. He had been disciplined for three prior complaints. When notified of the latest complaint, his Captain clearly and multiple times directed him not to contact anyone he even suspected might be the complainant. He called her at work. When asked by internal affairs, after Garrity warnings, about violating the order, Officer H insisted the Captain never told him not to contact the victim. Both the Captain and Officer H's Sergeant who was present when the direction was given testified at the OAH hearing. The Administrative law Judge found that he had lied to IA by denying the order was given. The Board revoked his certification for malfeasance, engaging in a pattern of conduct that tends to diminish public trust in the law enforcement profession and dishonesty.

CASE NO. 9**PHYSICAL VIOLENCE**

Officer I was off duty and with his family in his car when it was hit from behind. There was very minor damage and no injuries. Officer I became enraged, forcibly removed the 46 year old female driver of the other car from her car, forced her to the ground causing abrasions to her arms and damage to her clothing, and yelled obscenities at her. He was charged, tried and convicted of assault. He appeared before the Board and stated his conviction is up on appeal because he claims to have been acting as a peace officer and using reasonable force. The Board revoked his certification for committing an offense involving physical violence and malfeasance.

CASE NO. 10**PORNOGRAPHY**

Officer J accessed adult pornographic images on his department computer while on duty over about a two week period. He honestly answered questions about his misconduct at all times. The Board suspended his certification for six months, prospectively for malfeasance in office.

CASE NO. 11**HIT & RUN**

Officer K while off duty and driving her personal vehicle collided with an unattended vehicle in a parking lot and left the scene without making the proper notification. There were aggravating facts in that her recollection of the incident was inconsistent over time. The Board suspended her certification for one year prospectively.

CASE NO. 12**UNFOUNDED**

POST initiated a Complaint against Officer L for giving false information to investigators during an internal affairs investigation into the mishandling of property from the scene of a search warrant. Officer L had a hearing before the Office of Administrative Hearings at which five witnesses testified and 21 exhibits were admitted. The Administrative Law Judge found that Officer L did not lie and there were no grounds for discipline of his peace officer certification. The Board adopted the Findings of Fact and Conclusions of Law and dismissed the case against Officer L.

On May 18 and June 15, 2005, the Board voted to close out the following cases without initiating a Complaint for disciplinary action. This is neither a finding that no misconduct occurred nor a comment that the Board condones the conduct. In fact, the Board's rules are very broad and all misconduct violates one or more of the disciplinary rules. The Board may choose not to initiate a Complaint in a case even though there is misconduct if, considering all the circumstances, including agency discipline, the conduct does not rise to the level requiring a formal administrative proceeding. In many of these cases, the Board makes a statement that the conduct is an important consideration for a future hiring agency. By not taking disciplinary action, the Board leaves the determination of how serious the misconduct was to the discretion of an agency head who may choose to consider the officer for appointment. The Board relies on and enforces the statutory requirement of A.R.S. §41-1828.01 that agencies share information about misconduct with each other, even in cases where the Board has chosen not to take additional independent disciplinary action. Additionally, in some of these cases, further information is necessary before a charging decision can be properly made.

- An officer failed to properly document and secure evidence. A month later, the officer pepper sprayed a non-compliant handcuffed prisoner, in violation of agency policy.

- A deputy omitted detailed family information from his agency application for employment and gave inconsistent accounts as the victim of an armed robbery that occurred 18 months prior to his appointment.
- A deputy was accused by his wife of assaulting her, an accusation that was factually in doubt.
- A deputy did contracting as a side business without a license.
- An officer had consensual oral sexual contact with an explorer he soon married.
- A cadet attended a party where drugs were being used during the month before beginning the academy.

The Board adopted consent agreements calling for voluntary relinquishments or denials of certification where the following allegations had been made, but not proven.

- An officer lied to internal affairs about the facts leading to his previous arrest on a charge of battery.
- A sergeant denied in writing ever having sex with a particular woman, but when told an investigation would proceed, he resigned and admitted he had had sex with her on duty.
- A sergeant accessed pornography from his department computer and was not fully honest when asked about it.
- An officer responded to a report of harassing phone calls. He returned later in his shift and had sex with the reporting victim. He also made conflicting statements to IA during the investigation.